

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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BAY STATE GAS COMPANY)	D.T.E. 02-72
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**MOTION FOR PROTECTIVE ORDER
OF BAY STATE GAS COMPANY**

I. INTRODUCTION

Pursuant to 220 CMR 1.04(5)(a), Bay State Gas Company (“Bay State” or “Company”) hereby moves that the Department of Telecommunications and Energy (“DTE” or “Department”) grant protective treatment pursuant to G.L. c. 25, § 5D to the information provided in response to information requests DTE 1-7 and AG 1-7. In support of its request, Bay State states the following.

II. THE INFORMATION FOR WHICH BAY STATE SEEKS PROTECTION FROM PUBLIC DISCLOSURE FALLS WITHIN THE EXEMPTIONS OUTLINED IN G.L. c. 25, § 5D

A. Standard of Review

Pursuant to G.L. c. 25, § 5D, the Department is authorized to protect from public disclosure “trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings.” The Department has developed a three-part standard for assessing requests for protective treatment submitted pursuant to c. 25, § 5D. First, the information for which protection from disclosure is sought must constitute “trade secrets, [or]

confidential, competitively sensitive or other proprietary information.” Second, the party seeking protection from disclosure must overcome the statutory presumption that the public is benefited by disclosure of that information by “proving” the need for non-disclosure. Finally, the Department will protect only so much of the information as is necessary to meet the established need. See, e.g., Western Massachusetts Electric Company, D.T.E. 99-56 (1999); Dispatch Communications of New England d/b/a Nextel Communications, Inc., D.P.U. 95-59-B/95-80/95-112/96-13, September 2, 1997 Procedural Order. Appropriate considerations with respect to the public interest issue include an assessment of the interests at stake, the likely harm that would result from public disclosure of information, and the public policy implications of such disclosure. See, e.g., Berkshire Gas Company, D.P.U. 93-187/188/189/190 (1994); Boston Gas Company, D.P.U. 92-259 (1993), Essex County Gas Company, D.P.U. 96-105 (1996).

B. Items for Which Protective Treatment is Sought

Bay State seeks Protective Treatment of the identity of the banks contacted concerning reissuance of the Company’s long-term debt which is the subject of this proceeding. This information is included in the Company’s response to DTE 1-7. The information provided as attachments in response to information request AG 1-7 includes correspondence from banks concerning credit support for the BayNor agreement.

C. Bay State Has Met the Department’s Standard for Protective Treatment

The information concerning identity of financing entities providing quotes to Bay State for reissuance of its long-term debt is competitively sensitive information. Similarly, the correspondence that includes their proposed financing terms was provided to Bay State on a confidential basis. The entities that have provided pricing quotes to the Company have done so on the basis that their identity and proposed terms would not be subject to public disclosure.

Disclosure of their respective identities could place those financing entities at a competitive disadvantage. In addition, the financing entities identified in DTE 1-7 and AG 1-7 are not parties to the proceeding and therefore cannot make the request for protective treatment.

III. CONCLUSION

WHEREFORE, for the reasons contained herein, Bay State respectfully requests that the Department grant Bay State Gas Company's Motion for Protective Treatment of the identity of the financing entities provided in response to DTE information request 1-7 and the specific correspondence concerning proposed financing terms provided as an attachment to AG information request 1-7.

Respectfully submitted,

BAY STATE GAS COMPANY

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